

AMENDED IN ASSEMBLY SEPTEMBER 4, 2009

SENATE BILL

No. 68

Introduced by Committee on Budget and Fiscal Review

January 20, 2009

~~An act relating to the Budget Act of 2009. An act to amend Sections 33690 and 33690.5 of the Health and Safety Code, relating to community redevelopment, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 68, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2009—Community redevelopment: Supplemental Education Revenue Augmentation Fund.~~

(1) The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in blighted areas in those communities known as project areas. Section 16 of Article XVI of the California Constitution authorizes a redevelopment agency to receive funding through tax increments attributable to increases in assessed property tax valuation of property in a project area due to redevelopment. Not less than 20% of tax increments generated from a project area are required to be used by a redevelopment agency to increase and improve the community's supply of low- and moderate-income housing. Redevelopment agencies are required in the 2009–10 fiscal year to remit to the county auditor an amount of revenue for deposit in the Supplemental Educational Revenue Augmentation Fund in each county for allocation to school entities. Existing law authorizes the agency, in order to make the full allocation, to borrow the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to existing law, unless

executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund.

This bill would additionally authorize an agency, in order to make the required allocation to the county Supplemental Educational Revenue Augmentation Fund, to borrow any moneys in the Low and Moderate Income Housing Fund.

(2) Under existing law, the amount of revenue a redevelopment agency is required to remit to the county auditor during the 2009–10 and 2010–11 fiscal years is determined in accordance with specified calculations made by the Director of Finance and is based, in part, on a specified report of the Controller.

This bill would make an adjustment to the calculation made by the Director of Finance with respect to a redevelopment agency that, prior to August 1, 2009, deleted territory from any project area and reported to the State Board of Equalization in accordance with existing law and that deletion is not reflected in certain described reports. The bill would also authorize the director to use equivalent amounts reported in the 2007–08 edition of the specified report of the Controller if the 2007–08 edition is available at the time the required determinations are made.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2009.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33690 of the Health and Safety Code, as
2 added by Section 6 of Chapter 21 of the Fourth Extraordinary
3 Session of the Statutes of 2009, is amended to read:
4 33690. (a) (1) (A) For the 2009–10 fiscal year, a
5 redevelopment agency shall remit, as determined by the Director
6 of Finance, prior to May 10, 2010, an amount equal to the amount
7 determined for that agency pursuant to paragraph (2) to the county
8 auditor for deposit in the county Supplemental Educational
9 Revenue Augmentation Fund that is established in the county
10 treasury. Notwithstanding any other law, any funds deposited in
11 the Supplemental Educational Revenue Augmentation Fund shall
12 not be distributed to a community college district.

1 (B) On or before May 25, 2010, the county auditor shall report
2 to the Department of Finance each amount transferred to the
3 Supplemental Educational Revenue Augmentation Fund for the
4 2009–10 fiscal year.

5 (2) On or before November 15, 2009, the Director of Finance
6 shall do all of the following:

7 (A) Determine the net tax increment apportioned to each agency
8 pursuant to Section 33670, excluding any amounts apportioned to
9 affected taxing entities pursuant to Section 33401, 33607.5, or
10 33676.

11 (B) Determine the net tax increment apportioned to all agencies
12 pursuant to Section 33670, excluding any amounts allocated to
13 affected taxing entities pursuant to Section 33401, 33607.5, or
14 33676.

15 (C) Determine a percentage factor by dividing one billion seven
16 hundred million dollars (\$1,700,000,000) by two and then by the
17 amount determined pursuant to subparagraph (B).

18 (D) Determine an amount for each agency by multiplying the
19 amount determined pursuant to subparagraph (A) by the percentage
20 factor determined pursuant to subparagraph (C).

21 (E) Determine the total amount of property tax revenue
22 apportioned to each agency pursuant to Section 33670, including
23 any amounts allocated to affected taxing entities pursuant to
24 Section 33401, 33607.5, or 33676.

25 (F) Determine the total amount of property tax revenue
26 apportioned to all agencies pursuant to Section 33670, including
27 any amounts allocated to affected taxing entities pursuant to
28 Section 33401, 33607.5, or 33676.

29 (G) Determine a percentage factor by dividing one billion seven
30 hundred million dollars (\$1,700,000,000) by two and then by the
31 amount determined pursuant to subparagraph (F).

32 (H) Determine an amount for each agency by multiplying the
33 amount determined pursuant to subparagraph (E) by the percentage
34 factor determined pursuant to subparagraph (G).

35 (I) Add the amount determined pursuant to subparagraph (D)
36 to the amount determined pursuant to subparagraph (H).

37 (J) Notify each agency, each legislative body, and each county
38 auditor of each agency's amount. The county auditor shall deposit
39 these amounts in the county Supplemental Educational Revenue
40 Augmentation Fund pursuant to paragraph (1).

(3) The obligation of any agency to make the payments required pursuant to this subdivision shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the agency including, without limitation, bonds secured by a pledge of taxes allocated to the agency pursuant to Section 33670. Agencies shall factor in the fiscal obligations created by this subdivision when issuing bonded indebtedness.

(b) To make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income.

(c) (1) Notwithstanding any other law, to make the full allocation required by this section, an agency may borrow *from either the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, or any moneys in that fund, or both, unless, in a given fiscal year, executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund or the amount of moneys in the fund, or both, pursuant to the authority of this subdivision.*

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full on or before June 30, 2015. An agency that fails to repay funds borrowed pursuant to this subdivision shall be required to allocate an additional 5 percent of all taxes that are allocated to that agency pursuant to Section 33670 for low- and moderate-income housing for the remainder of the time the agency receives tax revenue pursuant to Section 33670.

(d) The legislative body shall by March 1, 2010, report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33692.

(e) The allocation obligations imposed by this section, including amounts owed, if any, created under this section, are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency

1 pursuant to Section 33670, and shall constitute an indebtedness of
2 the agency with respect to the redevelopment project until paid in
3 full.

4 (f) It is the intent of the Legislature, in enacting this section,
5 that these allocations directly or indirectly assist in the financing
6 or refinancing, in whole or in part, of the community's
7 redevelopment project pursuant to Section 16 of Article XVI of
8 the California Constitution.

9 (g) In making the determination required by subdivision (a),
10 the Director of Finance shall use those amounts reported in "Table
11 7, Assessed Valuation, Tax Increment Distribution and Statement
12 of Indebtedness" for all agencies and for each agency in the
13 2006–07 edition of the Controller's Community Redevelopment
14 Agencies Annual Report made pursuant to Section 12463.3 of the
15 Government Code, *subject to any adjustments required by*
16 *subdivision (h). Alternatively, the director may use the equivalent*
17 *amounts reported in the 2007–08 edition of the Controller's*
18 *Community Redevelopment Agencies Annual Report for the*
19 *determinations required by subdivision (a) if that edition is*
20 *available at the time the determinations are made.*

21 (h) *With respect to the use of amounts reported in the 2006–07*
22 *edition of the Controller's Community Redevelopment Agencies*
23 *Annual Report for purposes of subdivision (a), both of the following*
24 *shall apply:*

25 (1) If revised reports were accepted by the Controller on or
26 before September 1, 2008, the Director of Finance shall use
27 appropriate data that has been certified by the Controller for the
28 purpose of making the determinations required by subdivision (a).

29 (2) *The director shall adjust the reported amounts of net and*
30 *total tax increment revenue to exclude amounts apportioned to*
31 *any redevelopment agency from any territory that has been deleted*
32 *from any project area, as reported to the State Board of*
33 *Equalization in accordance with Section 33375 prior to August 1,*
34 *2009, and that deletion is not reflected in the Controller's 2006–07*
35 *published report or in the revised reports described in paragraph*
36 *(1).*

37 (i) Except as provided in Section 33331.5, nothing in this section
38 shall be construed as extending the time limits on the ability of
39 agencies to do both of the following:

40 (1) Establish loans, advances, or indebtedness.

1 (2) Exercise eminent domain powers.

2 (j) (1) Notwithstanding Sections 97.2 and 97.3 of Revenue and
3 Taxation Code, the county auditor-controller shall distribute the
4 funds that are remitted to the county Supplemental Educational
5 Revenue Augmentation Fund by a redevelopment agency pursuant
6 to this section only to a K-12 school district or county office of
7 education that is located partially or entirely within any project
8 area of that redevelopment agency in an amount proportional to
9 the average daily attendance of each school district.

10 (2) The county auditor-controller shall notify each K-12 school
11 district, and the State Department of Education, of the amount of
12 Supplemental Educational Revenue Augmentation Fund moneys
13 a district receives pursuant to this section from each redevelopment
14 agency. The county auditor-controller shall also notify each K-12
15 school district receiving funds pursuant to paragraph (1) of the
16 project area boundaries of each redevelopment agency from which
17 the K-12 school district received funds.

18 (3) (A) The county superintendent of schools shall provide the
19 average daily attendance reported for each school district as of the
20 Second Principal Apportionment for the 2009–10 fiscal year to
21 the county auditor-controller.

22 (B) The county auditor-controller shall, based on information
23 provided by the county superintendent of schools pursuant to
24 subparagraph (A), allocate the funding pursuant to this subdivision
25 to those districts within the county.

26 (4) The county auditor-controller shall notify, on or before May
27 25, 2010, the Department of Finance of the amount of funding
28 apportioned to each district or county office of education pursuant
29 to this subdivision.

30 (5) School districts and county offices of education shall use
31 the funds received under this section to serve pupils living in the
32 redevelopment areas or in housing supported by redevelopment
33 agency funds. Redevelopment agencies shall provide whatever
34 information school districts and county offices of education need
35 to accomplish this purpose.

36 (k) (1) For the 2009–10 fiscal year, the amount of property tax
37 revenues apportioned to each school district, pursuant to Article
38 2 (commencing with Section 96.1) of Chapter 6 of Part 0.5 of
39 Division 1 of the Revenue and Taxation Code, shall be reduced
40 by the total amount of Supplemental Educational Revenue

Augmentation Fund moneys the district receives. The amount of property tax revenues that is the product of this reduction shall be deposited in the county Supplemental Revenue Augmentation Fund established pursuant to Section 100.06 of the Revenue and Taxation Code.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the total amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives, regardless of the actual date the funds are received, pursuant to this section from each redevelopment agency shall be deemed to be “allocated local proceeds of taxes,” as defined in subdivisions (g) and (h) of Section 41202, and for purposes of Section 42238 of the Education Code, for the 2009–10 fiscal year.

(l) For purposes of this section, “K-12 school district” has the same meaning as a school district, as defined in Section 80 of the Education Code.

(m) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code had this section not been enacted.

SEC. 2. Section 33690.5 of the Health and Safety Code, as added by Section 7 of Chapter 21 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

33690.5. (a) (1) (A) For the 2010–11 fiscal year a redevelopment agency shall remit, as determined by the Director of Finance, prior to May 10, 2011, an amount equal to the amount determined for that agency pursuant to paragraph (2) to the county auditor for deposit in the county Supplemental Educational Revenue Augmentation Fund.

(B) On or before May 25, 2011, the county auditor shall report to the Department of Finance each amount transferred to the Supplemental Educational Revenue Augmentation Fund for the 2010–11 fiscal year.

(2) On or before November 15, 2010, the Director of Finance shall do all of the following:

(A) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(B) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(C) Determine a percentage factor by dividing three hundred fifty million dollars (\$350,000,000) by two and then by the amount determined pursuant to subparagraph (B).

(D) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (A) by the percentage factor determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(F) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(G) Determine a percentage factor by dividing three hundred fifty million dollars (\$350,000,000) by two and then by the amount determined pursuant to subparagraph (F).

(H) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (E) by the percentage factor determined pursuant to subparagraph (G).

(I) Add the amount determined pursuant to subparagraph (D) to the amount determined pursuant to subparagraph (H).

(J) Notify each agency, each legislative body, and each county auditor of each agency's amount. The county auditor shall deposit these amounts in the county Supplemental Educational Revenue Augmentation Fund pursuant to paragraph (1).

(3) The obligation of any agency to make the payments required pursuant to this subdivision shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the agency including,

1 without limitation, bonds secured by a pledge of taxes allocated
2 to the agency pursuant to Section 33670. Agencies shall factor in
3 the fiscal obligations created by this subdivision when issuing
4 bonded indebtedness.

5 (b) To make the allocation required by this section, an agency
6 may use any funds that are legally available and not legally
7 obligated for other uses, including, but not limited to, reserve funds,
8 proceeds of land sales, proceeds of bonds or other indebtedness,
9 lease revenues, interest, and other earned income.

10 (c) (1) Notwithstanding any other law, to make the full
11 allocation required by this section, an agency may borrow the
12 amount required to be allocated to the Low and Moderate Income
13 Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6,
14 unless, in a given fiscal year, executed contracts exist that would
15 be impaired if the agency reduced the amount allocated to the Low
16 and Moderate Income Housing Fund pursuant to the authority of
17 this subdivision.

18 (2) As a condition of borrowing pursuant to this subdivision,
19 an agency shall make a finding that there are insufficient other
20 moneys to meet the requirements of subdivision (a). Funds
21 borrowed pursuant to this subdivision shall be repaid in full on or
22 before June 30, 2016. An agency that fails to repay funds borrowed
23 pursuant to this subdivision shall be required to allocate an
24 additional 5 percent of all taxes that are allocated to that agency
25 pursuant to Section 33670 for low- and moderate-income housing
26 for the remainder of the time the agency receives tax revenue
27 pursuant to Section 33670.

28 (d) The legislative body shall by March 1, 2011, report to the
29 county auditor as to how the agency intends to fund the allocation
30 required by this section, or that the legislative body intends to remit
31 the amount in lieu of the agency pursuant to Section 33692.

32 (e) The allocation obligations imposed by this section, including
33 amounts owed, if any, created under this section, are hereby
34 declared to be an indebtedness of the redevelopment project to
35 which they relate, payable from taxes allocated to the agency
36 pursuant to Section 33670, and shall constitute an indebtedness of
37 the agency with respect to the redevelopment project until paid in
38 full.

39 (f) It is the intent of the Legislature, in enacting this section,
40 that these allocations directly or indirectly assist in the financing

1 or refinancing, in whole or in part, of the community's
2 redevelopment project pursuant to Section 16 of Article XVI of
3 the California Constitution.

4 (g) In making the determination required by subdivision (a),
5 the Director of Finance shall use those amounts reported in "Table
6 7, Assessed Valuation, Tax Increment Distribution and Statement
7 of Indebtedness" for all agencies and for each agency in the
8 2006–07 edition of the Controller's Community Redevelopment
9 Agencies Annual Report made pursuant to Section 12463.3 of the
10 Government Code, *subject to any adjustments required by*
11 *subdivision (h). Alternatively, the director may use the equivalent*
12 *amounts reported in the 2007–08 edition of the Controller's*
13 *Community Redevelopment Agencies Annual Report for the*
14 *determinations required by subdivision (a) if that edition is*
15 *available at the time the determinations are made, provided that*
16 *the director also used the 2007–08 edition for the purposes of*
17 *Section 33390.*

18 (h) *With respect to the use of amounts reported in the 2006–07*
19 *edition of the Controller's Community Redevelopment Agencies*
20 *Annual Report for purposes of subdivision (a), both of the following*
21 *shall apply:*

22 (1) If revised reports were accepted by the Controller on or
23 before September 1, 2008, the Director of Finance shall use
24 appropriate data that has been certified by the Controller for the
25 purpose of making the determinations required by subdivision (a).

26 (2) *The director shall adjust the reported amounts of net and*
27 *total tax increment revenue to exclude amounts apportioned to*
28 *any redevelopment agency from any territory that has been deleted*
29 *from any project area, as reported to the State Board of*
30 *Equalization in accordance with Section 33375 prior to August 1,*
31 *2009, and that deletion is not reflected in the Controller's 2006–07*
32 *published report or in the revised reports described in paragraph*
33 *(1).*

34 (i) Except as provided in Section 33331.5, nothing in this section
35 shall be construed as extending the time limits on the ability of
36 agencies to do both of the following:

37 (1) Establish loans, advances, or indebtedness.

38 (2) Exercise eminent domain powers.

39 (j) (1) Notwithstanding Sections 97.2 and 97.3 of Revenue and
40 Taxation Code, the county auditor-controller shall distribute the

1 funds that are remitted to the county Supplemental Educational
2 Revenue Augmentation Fund by a redevelopment agency pursuant
3 to this section only to a K-12 school district or county office of
4 education that is located partially or entirely within any project
5 area of that redevelopment agency in an amount proportional to
6 the average daily attendance of each school district.

7 (2) The county auditor-controller shall notify each K-12 school
8 district, and the State Department of Education, of the amount of
9 Supplemental Educational Revenue Augmentation Fund moneys
10 a district receives pursuant to this section from each redevelopment
11 agency. The county auditor-controller shall also notify each K-12
12 school district receiving funds pursuant to paragraph (1) of the
13 project area boundaries of each redevelopment agency from which
14 the K-12 school district received funds.

15 (3) (A) The county superintendent of schools shall provide the
16 average daily attendance reported for each school district as of the
17 Second Principal Apportionment for the 2009–10 fiscal year to
18 the county auditor-controller.

19 (B) The county auditor-controller shall, based on information
20 provided by the county superintendent of schools pursuant to
21 subparagraph (A), allocate the funding pursuant to this subdivision
22 to those districts within the county.

23 (4) The county auditor-controller shall notify, on or before May
24 25, 2011, the Department of Finance of the amount of funding
25 apportioned to each district or county office of education pursuant
26 to this subdivision.

27 (5) School districts and county offices of education shall use
28 the funds received under this section to serve pupils living in the
29 redevelopment areas or in housing supported by redevelopment
30 agency funds. Redevelopment agencies shall provide whatever
31 information school districts need to accomplish this purpose.

32 (k) (1) For the 2010–11 fiscal year, the amount of property tax
33 revenues apportioned to each school district, pursuant to Article
34 2 (commencing with Section 96.1) of Chapter 6 of Part 0.5 of
35 Division 1 of the Revenue and Taxation Code, shall be reduced
36 by the total amount of Supplemental Educational Revenue
37 Augmentation Fund moneys the district receives. The amount of
38 property tax revenues that is the product of this reduction shall be
39 deposited in the county Supplemental Revenue Augmentation

1 Fund established pursuant to Section 100.06 of the Revenue and
2 Taxation Code.

3 (2) For the purposes of making the computations required by
4 Section 8 of Article XVI of the California Constitution, the total
5 amount of Supplemental Educational Revenue Augmentation Fund
6 moneys a district receives, regardless of the actual date the funds
7 are received, pursuant to this section from each redevelopment
8 agency shall be deemed to be “allocated local proceeds of taxes,”
9 as defined in subdivisions (g) and (h) of Section 41202 and for
10 purposes of Section 42238 of the Education Code, for the 2010–11
11 fiscal year.

12 (l) For purposes of this section, “K-12 school district” has the
13 same meaning as a school district, as defined in Section 80 of the
14 Education Code.

15 (m) This section shall not be construed to increase any
16 allocations of excess, additional, or remaining funds that would
17 otherwise have been allocated to cities, counties, cities and
18 counties, or special districts pursuant to clause (i) of subparagraph
19 (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause
20 (i) of subparagraph (B) of paragraph (4) of subdivision (d) of
21 Section 97.3 of, or Article 4 (commencing with Section 98) of
22 Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation
23 Code had this section not been enacted.

24 *SEC. 3. This act is an urgency statute necessary for the*
25 *immediate preservation of the public peace, health, or safety within*
26 *the meaning of Article IV of the Constitution and shall go into*
27 *immediate effect. The facts constituting the necessity are:*

28 *In order to make the necessary adjustments to effectively*
29 *implement the Budget Act of 2009, it is necessary for this act to*
30 *take effect immediately.*

31 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
32 ~~changes relating to the Budget Act of 2009.~~